

No. 9 (1) 81-6Lab./15081.— In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Faridabad in respect of the dispute between the workmen and the management of M/s The Sonapat Cooperative Sugar Mills, Sonapat :—

IN THE COURT OF SHRI HARI SINGH KAUSHIK, PRESIDING OFFICER,
LABOUR COURT, HARYANA, FARIDABAD.

References No. 366, 367, 372, 373, 381, 382, 393, 394, 395, 397, 398 of 1980.

between

S/Shri Ram Dhari, Jai Pal Singh, Ram Singh Malik, Mohinder Singh, Sunder Singh Sharma, Jai Kumar Khatri, Azad Singh Rana, Prem Singh, Jagbir Singh, Dharam Singh, Attar Singh, workmen and the respondent management of M/s. The Sonapat Cooperative Sugar Mills, Limited, Sonapat :—

Present :—

Shri Ram Sarup, Lakra for the workmen.

Shri V.D. Sharma for the respondent management.

AWARD

These references No. 366, 367, 372, 373, 381, 382, 393, 394, 395, 397, 398 of 1980 have been referred to this Court by the Hon'ble Governor of Haryana,— vide his order No. ID/ SPT/63/80/40183, dated 5th August, 1980, ID/SPT/68/80/40177, dated 5th August, 1980, ID/ ID/SPT/62/80/40195, dated 5th August, 1980, ID/SPT/62/80/40195, dated 5th August, 1980, ID/SPT/73/80/40201, dated 5th August, 1980, ID/SPT/66/80/40249, dated 5th August, 1980, ID/SPT/76/80/40255, dated 5th August, 1980, ID/SPT/44116, dated 14th August, 1980, ID/SPT/60/80/44110, dated 14th August, 1980, ID/SPT/70/80/44122, dated 14th August, 1980, ID/SPT/65/80/43915, dated 12th August, 1980, ID/SPT/67/80/43909, dated 12th August, 1980, under section 10(i) (c) of the Industrial Disputes Act, 1947 existing between Shri Ram Dhari, Jai Pal Singh, Ram Singh Malik, Mohinder Singh, Sunder Singh Sharma, Jai Kumar Khatri, Azad Singh Rana, Prem Singh, Jagbir Singh, Dharam Singh, Attar Singh, workmen and the management of M/s. The Sonapat Cooperative Sugar Mills, Limited, Sonapat. The terms of the references were :—

Whether the termination of services of S/Shri Ram Dhari, Jai Pal Singh, Ram Singh Malik, Mohinder Singh, Sunder Singh Sharma, Jai Kumar Khatri, Azad Singh Rana, Prem Singh, Jagbir Singh, Dharam Singh, Attar Singh were justified and in order? If not, to what relief are they entitled?

After receiving these references, notices were issued to the parties and they appeared and filed their pleadings. The case in all the references is the same and the claimants' case is that they were appointed and terminated as under :—

Sr. No.	Name of the workman	Date of appointment	Date of termination
1.	Ram Dhari	8-12-78	5-3-80
2.	Shri Jai Pal Singh	16-12-78	5-3-80

Serial No.	Name of the workman	Date of appointment	Date of termination
3.	Shri Ram Singh Malik	29-11-76	5-3-80
4.	Shri Mohinder Singh	12-12-78	5-3-80
5.	Shri Sunder Singh Sharma	13-12-78	5-3-80
6.	Shri Jai Kumar Khatri	26-11-76	5-3-80
7.	Shri Azad Singh Rana	11-12-78	5-3-80
8.	Shri Prem Singh	11-12-78	5-3-80
9.	Shri Jagbir Singh	4-1-79	5-3-80
10.	Shri Dharam Singh	15-12-78	5-3-80
11.	Shri Attar Singh	3-1-79	5-3-80

as surplus without completing the mandatory provisions of section 25-F of the Industrial Disputes Act, 1947. The workmen's service is more than one year and they were confirmed and not on seasonal basis. They were employed through Employment Exchange and terminated to fill up the vacancies of their own persons. There are alternative posts with the factory which were not offered to them. The termination order is illegal, without justification. So, the workmen are entitled for reinstatement with continuity of service and with full back wages.

The case of the respondent according to their written statement is that the workmen were employed on seasonal basis. It is correct that they served more than one year. The formalities of retrenchment were completed as the services of the workmen were no more required so they were given one month's notice and they were terminated after the expiry of that period at the end of the crushing season and the posts were abolished. The workmen were removed according to the seniority list and there was no alternative post lying vacant to be offered and the workmen were asked to collect the 15-days average pay under section 25-F of the Industrial Disputes Act, but there was no response from the workmen's side. The management sent the 15-days average pay through money order to complete the necessary formalities of retrenchment. So the references may be dismissed.

On the pleadings of the parties, the following issues were framed :—

Whether the termination of services of the workmen were proper justified and in order ? If not to what relief are they entitled ?

On 15th September, 1981 at the stage of management evidence both the parties requested to consolidate the reference and the request was exceeded to and all the references were consolidated and it is ordered that the evidence shall be recorded in reference No. 366 of 1980 of Shri Ram Dhari's case. My findings on issue is as under :—

Issue No. 1.—

The representative of the respondent argued that the workmen were employed through employment exchange on seasonal basis. In the year 1978 and according to the staff strength recently sanctioned by the Haryana State Federation of Co-operative Sugar Mills Limited, some posts have been reduced from our previous strength. The matter was discussed by the Board of Directors in its meeting held on 6th December, 1979 and it was decided that the

surplus should be abolished after the crushing season 1979-80. According to that, the notices were given to the workmen in the month of February, 1980 and after expiry of this notice period their services were terminated in the month of March, 1980 and workmen were directed to collect their retrenchment compensation according to law but they failed to collect the same from office. The letter of appointment, notices and letter of termination are from Ex. M-1 to M-33 in respect of these workmen. The money order were sent at the addresses of the workmen on 4th September, 1980 when they failed to collect the same from the office but they refused to accept the money orders and all money orders received back. The respondent had observed all the formalities given under section 25-F of the I.D. Act and retrenched the surplus staff and they were not required by the respondent and there is no wrong in the termination order. The respondent was justified in his orders and the references may be dismissed.

The representative of the workmen argued that the workmen were employed through the Employment Exchange on seasonal basis in the year 1978 and the services of these workmen were confirmed by the respondent. The respondent gave notice of retrenchment to the workmen without preparing of any list of seniority and without sending the Form 'P' to the government. The respondent have not produced any list of seniority in the court so it is presumed that they have not prepared the list of retrenching workmen. The respondent also failed to give the notice under section 9-A of the I.D. Act. The termination was to accommodate their own persons in places of these workmen. The mill is working and they employed other workmen in places of these workmen without calling these workmen before appointing those persons, under the law. The respondent had not offered the retrenchment compensation according to law to the workmen on date of their termination of service which is against the law and violation of the Act. The respondent sent the money orders not in complete account in the month of September which Ex. M-34 shows that the amount sent by the respondent is after six months which also illegal on the part of the respondent. So the respondent had failed to complete the mandatory provisions of section 25-F of the Industrial Disputes Act, and the retrenchment is also illegal and the termination is not justified and proper in the eye of law.

After hearing the arguments of both the sides, and going through the file, I am of the view, that the respondent has not cared about the law for the safeguard of the workmen. The respondent argued that the workmen were retrenched as surplus but no seniority list was prepared by the respondent before retrenching these workmen. The workmen were not offered their retrenchment compensation as provided by the Industrial Disputes Act, 1947. So the contention of the respondent-management is wrong. Hence, the order of termination is also wrong and not justified in the eye of law. So the workmen are entitled for reinstatement with full back wages and continuity of services. No order as to costs. This be read in answer to these references.

Dated the 16th December, 1981.

HARI SINGH KAUSHIK,
Presiding Officer,
Labour Court, Haryana,
Faridabad.

Endorsement No. 3483, dated the 18th December, 1981

Forwarded (four copies), to the Commissioner & Secretary to Govt., Haryana, Labour & Employment Deptt., Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947 with the request that acknowledgement of the award may please be sent to this Court within week's time.

HARI SINGH KAUSHIK,
Presiding Officer,
Labour Court, Haryana,
Faridabad.